

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 176 be amended to read as follows:

- 1 Page 15, between lines 8 and 9, begin a new paragraph and insert:
- 2 "SECTION 19. [EFFECTIVE UPON PASSAGE] (a) As used in
- 3 this SECTION, "energy conservation measure" means a facility
- 4 alteration or an alteration of a structure (as defined in
- 5 IC 36-1-10-2) designed to reduce energy consumption costs or
- 6 other operating costs, including the following:
- 7 (1) Providing insulation of the school facility or structure and
- 8 systems within the school facility or structure.
- 9 (2) Installing or providing for window and door systems,
- 10 including:
- 11 (A) storm windows and storm doors;
- 12 (B) caulking or weatherstripping;
- 13 (C) multi-glazed windows and doors;
- 14 (D) heat absorbing or heat reflective glazed and coated
- 15 windows and doors;
- 16 (E) additional glazing;
- 17 (F) the reduction in glass area; and
- 18 (G) other modifications that reduce energy consumption.
- 19 (3) Installing automatic energy control systems.
- 20 (4) Modifying or replacing heating, ventilating, or air
- 21 conditioning systems.
- 22 (5) Unless an increase in illumination is necessary to conform
- 23 to Indiana laws or rules or local ordinances, modifying or
- 24 replacing lighting fixtures to increase the energy efficiency of
- 25 the lighting system without increasing the overall illumination

1 of a facility or structure.

2 (6) Providing for other energy conservation measures that
3 reduce energy consumption or reduce operating costs.

4 (b) As used in this SECTION, "guaranteed energy savings
5 contract" means a contract entered into by an entity and a
6 provider to:

7 (1) evaluate and recommend to the public entity energy
8 conservation measures; and

9 (2) provide for the implementation of at least one (1) energy
10 conservation measure.

11 (c) As used in this SECTION, "public entity" means a political
12 subdivision (as defined in IC 36-1-2-13) that enters into a
13 guaranteed energy savings contract.

14 (d) As used in this SECTION, "state board of accounts"
15 includes a deputy examiner, field examiner, or private examiner
16 acting for the state board of accounts.

17 (e) The uniform compliance guideline published in State Board
18 of Accounts, "Guaranteed Energy Savings Contracts", The School
19 Administrator and Uniform Compliance Guidelines, Volume 153,
20 Pages 5-7 (March 2001) is void. Any similar uniform compliance
21 guideline established by the state board of accounts that is
22 applicable to counties, cities, libraries, towns, or other political
23 subdivisions (as defined in IC 36-1-2-13) is void. The state board of
24 accounts and public entities shall resolve audit exceptions under
25 IC 5-11-5-1 as if a guideline described in this subsection was never
26 established.

27 (f) Notwithstanding IC 5-11-1-24 and IC 5-11-5-1, a finding that
28 is critical of an examined public entity may not be based on a
29 failure of the public entity to observe a uniform compliance
30 guideline concerning guaranteed energy savings contracts until the
31 state board of accounts has complied with all of the following
32 procedures in the development of the uniform compliance
33 guideline:

34 (1) Provide each public entity that the state board of accounts
35 may audit concerning guaranteed energy savings contracts
36 with the following:

37 (A) A notice of the date, time, and place where the state
38 board of accounts will convene a public hearing on the
39 state board of account's proposed uniform compliance
40 guideline concerning guaranteed energy savings contracts.

41 (B) A statement that the state board of accounts will
42 receive oral testimony concerning the state board of
43 account's proposed uniform compliance guideline
44 concerning guaranteed energy savings contracts from any
45 person at the public meeting and will accept written
46 comments concerning the state board of account's
47 proposed uniform compliance guideline concerning

1 guaranteed energy savings contracts at any time before the
2 close of the public hearing.

3 (C) A statement describing how a person may submit
4 written comments to the state board of accounts.

5 (D) A written copy of the state board of account's proposed
6 uniform compliance guideline concerning guaranteed
7 energy savings contracts.

8 (2) Conduct a public hearing on the state board of account's
9 proposed uniform compliance guideline concerning
10 guaranteed energy savings contracts that convenes not less
11 than forty-five (45) days after the state board of accounts
12 provides each public entity that the state board of accounts
13 may audit concerning guaranteed energy savings contracts
14 with notice of the public hearing. The state board of accounts
15 may conduct the public hearing in any informal manner that
16 allows for an orderly presentation of comments and avoids
17 undue repetition. However, the state board of accounts shall
18 afford any person attending the public hearing an adequate
19 opportunity to comment on the state board of account's
20 proposed uniform compliance guideline concerning
21 guaranteed energy savings contracts through the presentation
22 of oral and written facts or argument. The state board of
23 accounts may recess the public hearing and reconvene it on a
24 different date or at a different time or place by:

25 (A) announcing the date, time, and place of the reconvened
26 public hearing in the original public hearing before its
27 recess; and

28 (B) recording the announcement in the state board of
29 account's record of the public hearing.

30 (3) Shall fully consider comments received at the public
31 hearing required by this SECTION and may consider any
32 other information before adopting the uniform compliance
33 guideline concerning guaranteed energy savings contracts.

34 (4) Prepare a written statement that includes:

35 (A) a summary of the oral and written comments received
36 concerning the state board of account's proposed uniform
37 compliance guideline concerning guaranteed energy
38 savings contracts; and

39 (B) the state board of account's response to the oral and
40 written comments received under this SECTION.

41 (5) Adopt a final version of a uniform compliance guideline
42 concerning guaranteed energy savings contracts that does not
43 differ from the proposed uniform compliance guidelines
44 distributed to public entities, unless it is a logical outgrowth
45 of the proposed uniform compliance guideline as supported by
46 any written comments submitted during the public comment
47 period.

(6) Submit a copy of the written statement prepared under subdivision (4) to the legislative services agency for publication in the Indiana Register.

(7) Distribute a written copy of the final adopted uniform compliance guideline concerning guaranteed energy savings contracts to each public entity that the state board of accounts may audit concerning guaranteed energy savings contracts as required by IC 5-11-1-24.

(8) Submit proof of compliance with this SECTION to the attorney general and the governor.

(g) A uniform compliance guideline developed in compliance with this SECTION applies only to a guaranteed energy savings contract entered into after the date that the state board of accounts complies with subsection (f).

(h) The requirements to which this subsection applies include the following:

(1) An additional requirement to document energy or operating costs or savings or a requirement to document energy or operating costs or savings in a different manner than the public entity was previously documenting the costs or savings.

(2) A change in the types of expenditures that may be considered in determining energy or operating costs or savings.

(3) A change in the time period in which energy or operating costs or savings may be recognized.

Notwithstanding IC 5-11-5-1, unless a change in interpretation is incorporated into a uniform compliance guideline adopted in compliance with this SECTION, a finding that is critical of an examined public entity based on failure of the public entity or an officer or employee of a public entity to comply with a specific law concerning guaranteed energy savings contracts may not be based on a change in interpretation made by the state board of accounts more than six (6) months after the date the specific law became effective.

(i) This subsection applies only to the terms and implementation of a guaranteed energy contract that is entered into before July 1, 2001. If, after the initial enactment of IC 36-1-12.5, the state board of accounts:

(1) examined a public entity for an audited period in which the public entity had a guaranteed energy savings contract in effect; and

(2) did not make a finding critical of a particular guaranteed energy savings contract term or another particular act or omission related to the guaranteed energy savings contract that occurred or existed during the audited period;

the state board of accounts may not make a finding critical of the

1 same or another public entity in a later completed examination
2 based on the same or a similar type of contract term or other act
3 or omission. A failure to comply with a specific law to which this
4 subsection applies shall be treated as waived.

5 (j) This SECTION expires January 1, 2005."

6 Renumber all SECTIONS consecutively.

(Reference is to ESB 176 as printed April 6, 2001.)

Representative Smith M